

May 17, 2018

Mr. Devin Leary
Human & Rohde, Inc.
516 Virginia Avenue
Towson, MD 21286

Re: Raven Ridge at 9136 Liberty Road
Forest Conservation Variance
Tracking # 04-18-2717

Dear Mr. Leary:

A request for a variance from the Baltimore County Code Article 33, Title 6 Forest Conservation was received by this Department of Environmental Protection and Sustainability (EPS) on April 20, 2018. This request would allow removal of two specimen trees and critical impact to three others just offsite to develop a 17-lot residential subdivision. The specimen trees to be removed are a 50-inch DBH tulip poplar in fair condition and a 36-inch DBH silver maple in poor condition, both in forest. The three other trees adjacent to the site are either in poor condition or nonnative species.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of this property. The petitioner is seeking to construct 17 houses and maintain the existing church on the five-acre site. Requiring retention of all specimen trees would limit lot yield; however, the site is improved with the existing church complex to remain, and several other lots could be developed. Therefore, denying the variance would not deprive the petitioner of all beneficial use of the property. Consequently, we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. The need to remove the specimen trees is due to unique circumstances associated with their location relative to the buildable area rather than general conditions in the neighborhood. Therefore, we find the second criterion has been met.

Mr. Devin Leary
Raven Ridge at 9136 Liberty Road
Forest Conservation Variance
May 17, 2018
Page 2

The third criterion (Subsection 33-6-116(d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. Granting the variance would result in a 17-lot subdivision that is commensurate with the neighboring developments. Therefore, we find that granting the variance will not alter the essential character of the neighborhood; thus, this criterion has been met.

The fourth criterion (Subsection 33-6-116(e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. There are no streams, wetland floodplains or associated buffers on or near the proposed subdivision. Therefore, we find that granting the variance will not adversely affect water quality and that this criterion has been met.

The fifth criterion (Subsection 33-6-116(e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has taken no actions necessitating this variance prior to its request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Allowing removal of or impacts to six specimen tree would be consistent with the spirit and intent of the Forest Conservation Law given that the specimen trees are in highly fragmented forest, and ___ of them are in poor condition. Therefore, this criterion has been met.

Based on our review, this Department finds that all of the required criteria have been met. Therefore, the requested variance is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code with no mitigation since the specimen trees to be removed are in forest to be cleared and mitigated in accordance with an EPS-approved forest conservation plan (FCP). However, the following note must be on all plans and plats for this subdivision:

“A special variance to the Forest Conservation Law was granted by Baltimore County Dept. of Environmental Protection & Sustainability on April 12, 2017 to allow critical impacts to six specimen trees. Loss of the specimen trees was mitigated through the 2.6 acres of required reforestation. No further specimen tree impacts shall be permitted without prior approval of EPS.”

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and a new variance request.

Mr. Devin Leary
Raven Ridge at 9136 Liberty Road
Forest Conservation Variance
May 17, 2018
Page 3

If there are any questions regarding this correspondence, please contact Mr. Glenn Shaffer at (410) 887-3980.

Sincerely,

Vincent J. Gardina
Director

VJG/ges

- c. Scott Lindgren, Gerhold Cross & Etzel, Ltd.
Marian Honeczy, Maryland Department of Natural Resources